

**UNITED STATE DISTRICT COURT
DISTRICT OF MINNESOTA
Case No. 19-CR-13 (WMW/DTS)**

UNITED STATES OF AMERICA,

plaintiff,

**DEFENDANT'S MOTION TO
EXCLUDE TODD AXTEL AS A
REBUTTAL WITNESS**

v.

BRETT PALKOWITSCH,

defendant.

Brett Palkowitsch through counsel, Deborah Ellis and Kevin Short, move the Court for an Order precluding the Government from calling Todd Axtel as a rebuttal witness.

Todd Axtel is the Chief of Police for the City of St. Paul. Chief Axel has no personal knowledge of the events surrounding Frank Baker's arrest on June 24, 2016. Chief Axtel's only involvement with Brett Palkowitsch was in the context of "employment issues." Chief Axtel stated both these facts in a letter to the undersigned counsel dated October 9, 2019, a copy of which is attached.

Based on recent disclosures from the Government, Chief Axtel's anticipated testimony will be that he met with Brett Palkowitsch and recalled that Brett Palkowitsch stated he was "sorry for the circumstance" of Frank Baker's arrest. Chief Axtel is also expected to testify that he perceived Palkowitsch's demeanor as "stoic, uncaring, and unapologetic."

The meeting that Chief Axtel had with Brett Palkowitsch occurred at the end October 2016. The meeting was held with Brett Palkowitsch, his labor lawyer

Christopher Wachtler and St. Paul Police Federal president Dave Titus. The meeting was held after Chief Axtel wrote in a letter to Brett Palkowitsch stating that he was contemplating terminating Palkowitsch's employment (which he later did). If the Government is allowed to call Chief Axtel to testify to what he recalled Brett Palkowitsch saying in late October 2016 then the context of the conversation must necessarily be exposed. The conversation took place surrounding employment issues. Further, Chief Axtel's bias must also be explored. Chief Axtel's termination of Brett Palkowitsch was overturned following an arbitration proceeding.

Chief Axtel's testimony should be excluded under Rules 403 and 611 of the Federal Rules of Evidence. Any probative value of Chief Axtel's testimony is outweighed by the danger of causing unfair prejudice, confusing the issues, misleading the jury and wasting time.

This motion is based upon the entire record file and proceedings and any other matters brought to the Court's attention at the time of a hearing on the motion.

Dated: November 22, 2019

Respectfully submitted,

By: /s/ deborah ellis

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DEPARTMENT OF POLICE
Todd Axtell, Chief of Police



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October 9, 2019

Deborah Ellis and Kevin Short
Ellis Law Office
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RE: **United States of America v. Brett Palkowitsch**
Court File No.: 19-CR-13

Dear Ms. Ellis and Mr. Short,

I received your letter requesting a meeting about the above-mentioned criminal matter.

Please know that I have no firsthand knowledge of the matter for which Mr. Palkowitsch has been criminally charged by the federal government. My minimal involvement regarded the employment issues following the incident.

I'm unclear about the purpose and intent of the requested meeting.

For the reasons stated above, I must decline your request for a meeting.

Respectfully,

Todd Axtell
CHIEF OF POLICE